

REMARKS

This amendment responds to the Final Office Action dated September 11, 2009 and the Advisory Action dated December 2, 2009. . In the Advisory Action the Examiner:

- did not enter the presented 1.131 declarations; and
- stated that the 1.131 declarations provided insufficient evidence to establish a reduction to practice.

In the final office action mailed September 11, 2009 the Examiner:

- rejected claims 15-18, 20-21, 32-35, and 37 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. (U.S. 2005/0144157) in view of Durazo et al. (US 2005/0004990);
- rejected claims 19, 22, and 36 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. in view of Durazo et al. further in view of official notice; and
- rejected claims 41-44 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. (U.S. 2005/0144157) in view of Baldonado (US 7,035,903).

OFFICE ACTIONS IN RELATED APPLICATIONS

The pending application may be related to US Patent Application serial number 10/816,428. An office action on that application was mailed June 26, 2008 and a response was filed October 27, 2008. The pending application is also related to US Patent Application serial number 10/914,034. An office action on that application was mailed April 22, 2008 and a response was filed July 22, 2008. The Examiner is encouraged to review the art made of record, the Office Action and the response in the above-mentioned related applications.

REMARKS REGARDING AMENDMENTS TO THE CLAIMS

No claim amendments have been made.

SUBSTANCE OF THE INTERVIEWS

On December 9, 2009, and December 11, 2009 the Applicants and Examiner conducted informal interviews. The 1.131 Affidavits and support for a showing of reduction to practice were discussed.

1.132 AFFIDAVIT

Enclosed in Appendix A of this response is a 1.132 Affidavit of Brian D. Rakowski. The 1.132 Affidavit provides support for the reduction to practice of this invention as early as April 21, 2003.

The Examiner is respectfully requested to enter this affidavit and the previously submitted 1.131 Affidavits.

REJECTION UNDER 35 U.S.C. 103(a)

The Examiner has rejected claims 15-18, 20-21, 32-35, and 37 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. (U.S. 2005/0144157) in view of Durazo et al. (US 2005/0004990); rejected claims 19, 22, and 36 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. in view of Durazo et al. further in view of official notice; and rejected claims 41-44 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. in view of Baldonado (US 7,035,903). In summary, all of the rejected claims rely on Moody, Durazo, or both.

Moody et al. and Durazo et al. Are Not Prior Art

Moody et al. was filed on Dec. 29, 2003 and published on June 30, 2005. Durazo et al. was filed on May 21, 2004 and published Jan. 6, 2005. As shown in the 1.131 Affidavits in Appendix A, invention was conceived on or before September 19, 2002 and reduced to practice as early as June 22, 2003. As shown in the currently submitted 1.132 Affidavit reduction to practice happened at least as early as April 21, 2003. Since both Moody and Durazo were filed and published after the conception and reduction to practice dates of this invention, Moody and Durazo are not prior art under 35 U.S.C. § 103(a).

The 35 U.S.C. § 103(a) Rejections are Traversed

Since Moody and Durazo are not prior art, and all the 35 U.S.C. § 103(a) rejections are based on Moody, Durazo, or both, the rejections under 35 U.S.C. § 103(a) are traversed. Withdrawal of the rejections under 35 U.S.C. § 103(a) is requested.

By responding in the foregoing remarks only to particular positions asserted by the Examiner, the Applicants do not necessarily acquiesce in other positions that have not been explicitly addressed. In addition, the Applicants' arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (650) 843-4000, if a telephone call could help resolve any remaining items.

Respectfully submitted,

Date: December 11, 2009

/ Gary S. Williams /

31,066

Gary S. Williams

(Reg. No.)

MORGAN, LEWIS & BOCKIUS LLP

2 Palo Alto Square

3000 El Camino Real, Suite 700

Palo Alto, CA 94306

(650) 843-4000

APPENDIX A